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J-P

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/300,302	04/27/99	LLINAS	G B-3645.61707

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IM22/0810

 EXAMINER

PASTERCZYK, J

 ART UNIT

1755

 PAPER NUMBER

DATE MAILED: 08/10/01

17

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. 09/300,302	Applicant(s) Hidalgo Llinas et al.
Examiner J. Pasterczyk	Art Unit 1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on 5/23/01 and 6/8/01

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-20 is/are pending in the application.

4a) Of the above, claim(s) 9 and 12 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-8, 10, 11, and 13-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims 1-20 are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892) 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 16 20)  Other: \_\_\_\_\_

Art Unit: 1755

1. This Office action is in response to the amendment filed 5/23/01 and the IDS filed 6/8/01 and refers to the first Office action mailed 11/17/00. Because it is not clear from the record whether or not certain copies of previous IDS forms were sent, copies are now being provided.

2. Claims 1-8, 10-11 and 13-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 6, in the line reciting the sum of "x + y + z is equal to a valence of M", change "a" to --the--.

In claim 2 (amended), l. 3, insert a space before "cycloalkylene" and change the semicolon at the end of the claim to a period.

In claims 8 and 11, third line of each, insert --an-- before "alkylaluminoxane", and correct the spelling to --trialkylaluminum--.

In claims 18-20, Cp\* is not defined, and in the text of each of these claims, Cp should be C<sub>p</sub>.

In claims 1-8, 10-11 and 13-20, the recitation of the component being heterogeneous is incorrect since it would require a comparison to something else, e.g. the composition in the presence of a solvent, or the composition as being used in an olefin polymerization process. A composition itself is not homogeneous or heterogeneous. Also, in claims 6-8, 14, 16, 17, 19 and 20, if the composition were to be heterogeneous in a typical solvent used for polymerizing

*0.15 1.2  
0.94 1.1  
0.369 1.1  
0.6 1.1  
0.116 1.34 2.1  
R 1.1*

Art Unit: 1755

olefins, it would have to be supported on a support, which is not recited as being a necessary reagent.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-4, 6, 7, 10, 11, 13-16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vega as cited in and for the reasons of record given in paragraph 9 of the first Office action.

5. Claims 1-8, 10, 11 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidalgo Llinas as cited in and for the reasons of record given in paragraph 10 of the first Office action.

6. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canich as cited in and for the reasons of record given in paragraph 11 of the first Office action.

7. Applicant's arguments filed 5/23/01 have been fully considered but they are not persuasive.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of

Art Unit: 1755

the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is (703) 308-3497. Our fax number is 305-5433.

J. Pasterczyk

July 30, 2001



Mark L. Bell  
Supervisory Patent Examiner  
Technology Center 1700